



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,486	11/13/2003	David A. Schechter	2876	8330

50855 7590 05/11/2006

UNITED STATES SURGICAL,
A DIVISION OF TYCO HEALTHCARE GROUP LP
195 MCDERMOTT ROAD
NORTH HAVEN, CT 06473

EXAMINER

TOY, ALEX B

ART UNIT	PAPER NUMBER
----------	--------------

3739

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

10/712,486 11/13/2003 Schechter, David 2876(203-3345)

EXAMINER

Alex B. Toy

ART UNIT	PAPER
----------	-------

3739 20060505

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

DETAILED ACTION

Election/Restrictions

Newly submitted claims 1-5, 7-8, and 21-23 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: By specifying "each of the elastomeric materials including an electrode disposed at least partially therein", applicant claims subject matter drawn to non-elected Species II shown in Fig. 3.

Since applicant has received an action on the merits for the originally presented invention (Species I shown in Fig. 2, elected without traverse), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-5, 7-8, and 21-23 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Amendment

The reply filed on February 13, 2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Since claims 1-23 are withdrawn from consideration as being directed to a non-elected invention due to the election by original presentation, there are currently no claims left to examine. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid

abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

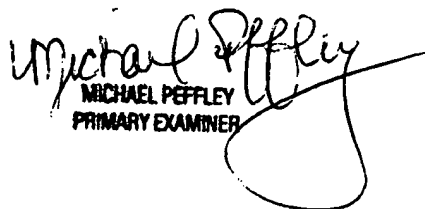
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex B. Toy whose telephone number is (571) 272-1953. The examiner can normally be reached on Monday through Friday, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AT AT
5/5/06


MICHAEL PEFFLEY
PRIMARY EXAMINER